TRUSTS — INSURANCE — MURDER OF INSURED BY BENEFICIARY. — The beneficiary in a benefit certificate of insurance murdered the insured. The administrator of the insured sued on the policy. An assignee of the beneficiary intervened. *Held*, that since the company was a trustee of the money payable on the certificate for the beneficiary her crime barred all actions by her or her assignee and a resulting trust for the administrators of the insured arose. *Schmidt* v. *Northern Life Assoc.*, 83 N. W. Rep. 800 (Iowa). See NOTES, p. 375.

TRUSTS — INVESTMENTS BY TRUSTEES — LIABILITY FOR LOSS. — A testator, in creating a trust, directed his trustees to invest the funds in any securities which they might deem beneficial to his estate. They invested in the stock of a corporation organized to engage in manufacturing, but having no plant and no established business. *Held*, that this is beyond the scope of their authority, and they are therefore liable for the loss resulting. *In re Hall*, 58 N. E. Rep. 11 (N. Y.).

In England, in the absence of directions by the testator, trustees are allowed to invest only in government securities or in first mortgages on real estate. *Hancom* v. *Allen*, 2 Dick. 498; *Clough* v. *Bond*, 3 Myl. & C. 490, 496. This rule has been adopted in some of our states. *King* v. *Talbot*, 40 N. Y. 76; *Hemphill's Appeal*, 18 Pa. St. 303. In others, however, no particular investments are prescribed, but the trustee must act faithfully and with sound discretion. *Harvard College* v. *Amory*, 9 Pick. 446; *Mattocks* v. *Moulton*, 84 Me. 545. Even where the trustees, as in the principal case, are given by the terms of the will unlimited choice in their investments, they should still use a sound discretion. *Clark* v. *Garfield*, 8 Allen, 427. Such discretion is that which prudent men would exercise in the management of their own affairs, not with reference to speculation, but with a view to the permanent disposition of funds. *Harvard College* v. *Amory*, *supra*; *Kimball* v. *Reding*, 31 N. H. 352. The investment in the principal case is clearly speculative in nature, and the decision is therefore unquestionably correct.

REVIEWS.

AMERICAN LAW. A Treatise on the Jurisprudence, Constitution, and Laws of the United States. By James Dewitt Andrews. Chicago: Callaghan & Co. 1900. pp. cxii, 1245.

There are, it is conceived, three possible varieties of treatise on the *corpus juris* of America. Historically the method and purpose of Blackstone and Kent take precedence. They purported to place within a single work an authoritative statement of the law in all its parts. Both these authors pursued the method followed by Glanvil, Bracton, Coke, and Hale, and assumed that the only serviceable works on the laws of England were those which treated the whole of its jurisprudence. In adopting this system they all took as a model Justinian's Institutes and Code. What may be denominated the second class of works on the whole body of the common law is that to which the volumes by Walker and by Russell belong. They are hardly more than a course of lectures thrown into the form of a text-book. The third sort of treatise is best exemplified by Savigny's Geschichte des Heutigen Römischen Rechts. Such a work aims to show the history and genesis of the law in all its parts, and is characterized by a close historical analysis of the relation existing between those various subdivisions. As the law stands in America, the first class of treatise has passed away in deference to the works on special topics. The second is useful only to the student of the elements of the law. Of the three varieties the last is the only one which can be of any service to us, and it ought not to be attempted until the various por-

tions of our jurisprudence have undergone a much more thorough historical investigation. Even if the material for this work were at hand no one should essay to place it in coherent form unless he has spent a lifetime of study in preparation. These requirements account sufficiently for the fact that there is as yet no example of this class in the domain of the common law, and demonstrate fully why no satisfactory treatise will be forthcoming for many years.

The present volume, if it belong to the first class, is obsolescent if not obsolete. It is designed to satisfy a want better satisfied by works on special topics. Even if it were admitted that Professor Andrews has excelled Blackstone in his own sphere, still that furnishes no conclusive reason why the more modern work should prove invaluable. Blackstone and his method belong to the time that has passed. When he was read it was because his book was the best exemplification of what was then the only existing method, namely, that of treating the whole body of the law in one work, and not because his method was the best method. To-day his system has been superseded by one more enlightened. For an authoritative text of the law of contracts or property we go to volumes devoted to the treatment of those particular subjects. It sounds like stating a self-evident proposition to assert that any text book which takes for its model a system discarded as inefficient is bound in the nature of things to be disregarded and remain unread, no matter how perfectly the erroneous method has been set forth. The pretensions of the volume under discussion exclude it from the second class, and if it is intended to stand beside Savigny's "History" it is premature.

The author, however, has, and it is submitted correctly, devoted much of his labor and time to classifying and arranging the topics of the common law. This is the first and most indispensable requisite of any treatise on the *corpus juris*. The classification adopted is in the main desirable and well-considered, though perhaps the proposed alteration in existing phraseology is to be deplored. Another rule of great importance, which ought to be observed in this as in every other text-book, is that which bids the author let the fulness and length of treatment accorded the various topics be in proportion to their relative importance. This rule Professor Andrews has entirely disregarded. Hundreds of pages are devoted to one subject, while another topic hardly less important is allowed scarcely a hundredth part of that space. Procedure and constitutional law claim a large fraction of the volume, while international law is wholly omitted, and the entire body of the criminal law is dismissed in three pages. This lack of any sense of proportion seems unpardonable.

The style, especially in the parts devoted to constitutional law and evidence, is singularly clear and condensed. In some portions of the book, however, the sentences seem crude and unfinished, and appear to indicate that the labor was hurriedly done. Though the law is usually stated correctly, there are several instances in which the principles laid down as undoubted are, if not absolutely erroneous, still of questionable correctness. This fault may be observed in § 390, dealing with the ability of a court to consult the journals of the legislature when it passes on the constitutionality of a law; in § 386, where the limits of legislative power are stated; and in the definitions of a conditional limitation (p. 1002) and of a base fee (p. 978.)

The introduction to the volume under discussion is devoted to the

treatment of the fundamental propositions underlying the theory of government. The main body of the work is divided into the law relating to persons and that relating to things (or property). Under the law of persons the author discusses the theory of rights and remedies, the law of our constitution, the law of corporations, personal rights, and domestic relations. Things are divided into those personal and those real. Under the sections devoted to the former the writer gives us a short abstract of those topics which include the great part of the civil branch of our jurisprudence. The law of actions is next treated. Under this head are included the rules of evidence. The last in order is the law of crimes.

To him who desires a knowledge of the very elementary parts of the law some portions of this book will be useful. But to the thorough student it is absolutely valueless, and to the practicing lawyer it will be of little service. In conclusion, it may be deplored that one possessing the author's clearness of expression and great erudition should have so far mistaken the needs of the present day as to take as his model a method and a text-book now obsolete. H. F.

THE PEACE CONFERENCE AT THE HAGUE. And its Bearings on International Law and Policy. By Frederick W. Holls, D. C. L. New York: The Macmillan Co. 1900. pp. xxix, 573.

The object of this work is to place the story of the Hague Conference and a description of its work before the general reader as well as the student of international law. After a discussion of events leading up to and including the opening session, there is given a detailed account of the work of the three committees into which the conference was divided. Following an interesting statement of the attitude of the United States concerning the immunity of private property on the high seas and other general topics, the body of the work concludes with a consideration of the bearings of the conference on international law and policy. The appendices contain the text, in French and in English, of the final act, the treaties, and the declarations adopted by the conference; the reports of the American commissioners to their government; and an account of the Grotius celebration at Delft.

While there appears in the rescript of the Emperor of Russia no intention to discuss measures for disarmament, many have felt that the conference was a failure in not providing for the limitation of future armament. Before beneficial results have been exemplified, it is not likely that many will take so optimistic a view of the work of the conference as Mr. Holls avowedly does; nevertheless, the results actually achieved must not be slighted. The adoption to maritime warfare of the principles of the Geneva Convention (1864) is probably of even greater importance than the author contends. The same is true of the revision of the regulations respecting the laws and customs of war on land, as embodied by the Brussels Conference (1874), but never before ratified. In the opinion of Mr. Holls the substantial achievement of the conference was the result of the work of the third committee — the convention for the peaceful adjustment of international differences. But, as the author realizes, the beneficial results of this convention depend entirely upon public opinion. For, all that is provided is a machinery for settling those differences which contending nations may be willing to submit to adjudication. Hence the